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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2021

CORAM:

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

Tr.C.M.P. No.367 of 2021
and C.M.P. No.8550 of 2021

S.Chandrasekar

.. Petitioner

Vs

Gomadhi Devi

.. Respondent

PRAYER : Transfer Civil Miscellaneous Petition filed under Section 24 of Civil Procedure Code, to withdraw the HMOP. No.21 of 2017 on the file of the Family Court, Trichy and transfer the same to try along with HMOP No.79 of 2021 on the file of the Subordinate Judge, Hosur

For Petitioner : Mr.AN.Ramanathan
For Respondent : Mr.K.Rajamohan

O R D E R

This petition is filed by the husband seeking to withdraw the proceedings in HMOP No.21 of 2017 pending on the file of the Family Court, Trichy and transfer the same to Sub Court, Hosur to be tried along with HMOP No.79 of 2021.

2.The marriage between the petitioner and the respondent was solemnized on 26.06.1996 and that the parties have separated after a long period of more than 20 years. The petitioner is the husband. The respondent wife filed the petition in HMOP No.21 of 2017 on the file of the Family Court, Trichy for divorce. Whereas, the petitioner husband filed HMOP No.79 of 2021 on the file of the Sub Court, Hosur for restitution of conjugal rights. The petitioner states that the respondent wife voluntarily deserted him and went to Chennai to live in her brother's house.

3.The learned counsel appearing for the petitioner states that the respondent is not in Chennai or in Trichy but in Madurai and therefore, no hardship would be caused in transferring the proceedings from Trichy.

4.The learned counsel for the respondent states that the wife was forced to leave the matrimonial home on account of several circumstances which are narrated in the petition for



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divorce. She is living along with her daughter. Hence it is stated by the respondent that she may not get a fair opportunity if the proceedings are transferred to Hosur where the petitioner husband resides. The respondent states that the petitioner husband is alcoholic and she has made serious allegations against the husband for his cruel and irresponsible attitude. The respondent wife is living with her 18 year old daughter in Madurai even though her permanent residence is at Trichy. In a petition filed by the husband, the wife should be given preference. When the proceedings are before the two Courts and there are common issues, it is always preferable in the interest of justice to have a joint trial.

4. Having regard to the facts and circumstances of the case, this Court is unable to resist the prayer of the respondent wife that the proceedings should be heard together in Trichy. Having regard to the facts and circumstances of the case and considering the convenience of the wife, this Court is inclined to pass the following order:

The proceedings in HMOP No.79 of 2021 pending on the file of the Subordinate Court, Hosur filed by the husband for restitution of conjugal rights are withdrawn and transferred to the Family Court, Trichy to be tried along with HMOP No.21 of 2017. The learned Subordinate Judge, Trichy is directed to dispose of both the matters as expeditiously as possible, preferably within a period of four months from the date of receipt of a copy of the records. In case the wife fails to appear continuously for two or more consecutive hearings, the petitioner husband will have an option to seek modification of this Order or re-transfer of the case. It is also open to the parties to go for mediation or for settlement. In case the parties come forward with any settlement proposal, the Family Court, Trichy may persuade the parties to agree for an amicable settlement, taking into consideration, the larger interest and the welfare for their daughter.

5. Accordingly, this transfer civil miscellaneous petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

ssr



To

1. The Judge
Family Court, Trichy

2. The Subordinate Judge, Hosur

+1 CC to Mr.K.Rajamohan, Advocatet sr 35269.

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LN(CO)
SP(19/08/2021)